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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES MOSQUEDA,

Defendant.

Case No. 2:24-cr-00015-RFB-NJK

Government's Sentencing Memorandum

The United States of America, through the undersigned, submits the following Sentencing Memorandum for the Court's review prior to sentencing. Sentencing is currently set for April 16, 2025.

I. Factual Background

On January 24, 2024, a federal Grand Jury sitting in Las Vegas, Nevada, issued a criminal indictment charging the Defendant James Mosqueda with one count of Engaging in the Business of Dealing or Manufacturing Firearms Without a License, one count of Trafficking in Firearms, one count of Distribution of a Controlled Substance (Methamphetamine), and five counts of Unlawful Transfer or Possession of a Machinegun. *See* ECF No. 18.

1 On November 21, 2024, Defendant entered into a plea agreement and plead guilty to
2 an eight-count criminal information. *See* ECF No. 33. To support his guilty plea the Defendant
3 admitted the following:

4 Beginning in September 2023 and continuing through November 2023, Defendant
5 engaged in the business of dealing firearms without a Federal Firearms License to do so.
6 Defendant admits that he was not and is not licensed to manufacture and sell privately made
7 firearms. Specifically, as described below, Defendant manufactured and sold firearms and
8 machineguns to ATF confidential informants (CIs) and a HSI undercover agent (UC):

- 9 • On or about September 26, 2023, Defendant sold a 9mm privately made
10 firearm (“PMF”) and a Heckler and Koch USP .45 pistol bearing serial
11 number: 29-087696, to CI’s in exchange for \$1,800.00.
- 12 • On or about October 2, 2023, Defendant sold a 9mm PMF, a silencer, and 13
13 Machinegun Conversion Devices (“MCDs”) to a CI in exchange for
14 \$1,400.00.
- 15 • On or about October 12, 2023, Defendant sold a 9mm PMF and 55 MCDs to
16 a CI in exchange for \$1,400.00.
- 17 • On or about October 20, 2023, Defendant sold a 9mm PMF, 10 Glock switch
18 style MCDs, 32 AR drop-in style MCDs, to a CI exchange for \$1,000.00.

19 Defendant admits that he knew, or was aware of, the essential characteristics of the
20 Machinegun Conversion Devices (MCD’s). Specifically, that a MCD is a “machinegun” as
21 defined by 18 U.S.C. § 921(a)(24) and 26 U.S.C. § 5845(b) and is a “firearm” as defined in 26
22 U.S.C. § 5845(a)(6). The MCD’s did not bear a manufacturer’s mark, identification or serial
23 number as required by 26 U.S.C. § 5842 and converts semi-automatic firearms into fully
24 automatic firearms. Defendant also admits that he knew or had reason to believe that his

1 conduct affected interstate commerce and would result in the transport, transfer, or disposal of
2 a firearms to an individual whose possession or receipt of the firearm is unlawful.

3 Defendant admits that during the October 20, 2023, purchase, Defendant also sold 1,061
4 gross grams of methamphetamine to a HSI undercover (“UC”) agent in exchange for
5 \$2,600.00. Defendant knew that what he sold was methamphetamine or some other federally
6 controlled substance.

7 The activity described above took place in the State and Federal District of Nevada. *See*
8 ECF No. 33, ¶ 13.

9 **II. Guideline Calculations**

10 The Presentence Investigation Report (“PSR”) correctly calculates a base level offense
11 of 34 pursuant to U.S.S.G. §§ 2D1.1(a)(5) and (c)(3). *See* PSR ¶ 38. The PSR identifies a two-
12 level increase for a specific offense characteristic pursuant to U.S.S.G. § 2D1.1(b)(1). *See* PSR ¶
13 39. The parties’ plea agreement excluded this specific offense characteristic. The PSR also
14 provides a three-level deduction for acceptance of responsibility under U.S.S.G. § 3E1.1(b). *See*
15 PSR ¶¶ 45-46. The PSR then calculated the total offense level to be 33, coupled with a criminal
16 history category of II, which results in an advisory guideline range of 151 to 188 months. *See*
17 PSR ¶ 94. The Probation Officer recommends a total aggregate sentence of 97 months custody
18 with 4 years of supervised release to follow. *See* PSR, p. 28.

19 **III. Argument**

20 **A. Term of Imprisonment**

21 The goal of sentencing is to “‘impose a sentence sufficient but not greater than
22 necessary’ to reflect the seriousness of the offense, promote respect for the law, and provide just
23 punishment; to afford adequate deterrence; to protect the public; and to provide the defendant
24 with needed . . . correctional treatment.” *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008)

1 (quoting 18 U.S.C. § 3553(a)). In fashioning a sentence, the Court considers the “the nature and
2 circumstances of the offense and the history and characteristics of the defendant,” “the need for
3 the sentence imposed,” “the kinds of sentences available,” the applicable sentencing guideline
4 range, any pertinent policy statement, sentences imposed on other similarly situated
5 defendants, and the need for victim restitution. *See* 18 U.S.C. § 3553(a).

6 In comporting with the terms of the plea agreement, the parties are jointly
7 recommending a custodial sentence of 87 months after taking into consideration all of the
8 factors in 18 U.S.C. § 3553(a). The requested 87 months is the low end of the guidelines range
9 when utilizing a total offense level of 34, as calculated by the parties, and the Defendant’s
10 criminal history category.

11 The offense conduct in this case is serious. The Defendant manufactured and sold
12 firearms. Notably, six firearms were privately manufactured, meaning they have no serial
13 number and therefore untraceable. *See* PSR ¶ 31. Additionally, the Defendant manufactured
14 and sold machine gun conversations devices, utilizing a 3-D printer. The PSR calculates that
15 the Defendant is responsible for *one hundred and sixty* machine gun conversation devices. *Id.*
16 These devices make inherently dangerous firearms significantly more dangerous by converting
17 semi-automatic firearms into fully functioning machineguns. Such firearms are not designed to
18 function as machineguns thus making it incredibly difficult to control and aim. Machine gun
19 conversion devices add an even more deadly layer to firearm violence and endangers the safety
20 of all members in the community. In addition to firearms, the Defendant also sold 876.8 grams
21 of methamphetamine ice. *Id.* Methamphetamine is a Schedule II narcotic that is often abused
22 and can result in violent behavior. Despite this, the Defendant distributed a significant amount
23 of methamphetamine into the community, ignoring the dangers this drug poses.

1 The Defendant's age should not excuse his criminal behavior. The Defendant's actions
2 were dangerous, and he needs to be held accountable for such. The Defendant had no
3 hesitation in selling firearms to felons, stating "that's one of the risks" or exposing his four-year
4 old daughter to such dangerous weapons. *See* PSR ¶¶ 29 and 114. The Defendant knew he was
5 putting dangerous weapons and drugs into the community and simply did not care about the
6 consequences. Based on the Defendant's limited criminal history and the seriousness of the
7 offenses, the government submits that an 87-month sentence is sufficient but not greater than
8 necessary to reflect the seriousness of the offense, promote respect for the law and provide just
9 punishment.

10 **B. Supervised Release**

11 In terms of supervised release, the government concurs with the recommendation of the
12 PSR, that the Defendant be subjected to a four-year term of supervised release. In addition to
13 keeping the community safe, supervised release helps to address the concerns noted in the PSR.
14 The government submits that any likelihood that the Defendant has to re-offend will be
15 significantly reduced if he remains accountable under supervision. The government further
16 submits that all of the recommended conditions are reasonably related to the goal of deterrence,
17 protection of the public, rehabilitation of the defendant, and involve no greater deprivation of
18 liberty than is reasonably necessary for purposes of supervised release.¹

19 In addition to the standard conditions of supervised release, the PSR recommends
20 special conditions for supervised release. *See* PSR, pp. 31-32. The government agrees with
21 Probation's recommendation. Notably, there is a condition of "no gang affiliation." While the
22 Defendant denied being affiliated with any criminal gang, he did admit to being a "South
23

24 ¹ To date, the Defendant has not objected to any of the recommended conditions of supervised release.

1 Sider” and acknowledged that he would “hang out” with Southsiders criminal street gang—a
2 faction of the Sureños prison gang. *See* PSR ¶¶ 29 and 64. Imposing this condition will provide
3 Defendant the opportunity to stay away from the gang lifestyle and engage in any future
4 criminal activity. Supervised release is an important part of sentencing. Imposing such
5 conditions, or setting parameters of supervision, allows the probation officer to work with the
6 Defendant and facilitate reintegration to the community. Moreover, it is an integral tool used to
7 ensure that once the Defendant is released from custody, he can become a productive member
8 of society and with the assistance of the probations officer, resist the temptations of a criminal
9 lifestyle and be a law-abiding citizen. Given the significant offenses to which Defendant plead
10 guilty and the Defendant’s actions, four years of supervised release is appropriate.

11 IV. Conclusion

12 The government respectfully requests that this Honorable Court impose a sentence of 87
13 months imprisonment, followed by a four-year term of supervised release.

14 DATED: April 9, 2025

15 Respectfully submitted,

16 SIGAL CHATTAH
United States Attorney

17 /s/ Lauren Ibanez

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Lauren Ibanez
Assistant United States Attorney
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